



This document is scheduled to be published in the Federal Register on 12/23/2016 and available online at <https://federalregister.gov/d/2016-30959>, and on [FDsys.gov](https://FDsys.gov)

## **DEPARTMENT OF COMMERCE**

### **U.S. Census Bureau**

**Agency Information Collection Activities; Request for Comments;** Revision of the Confidentiality Pledge under Title 13 United States Code, Section 9

**AGENCY:** U.S. Department of Commerce, Census Bureau

**ACTION:** Notice.

**SUMMARY:** Under 44 U.S.C. 3506(e) and 13 U.S.C. Section 9, the U.S. Census Bureau is seeking comments on revisions to the confidentiality pledge it provides to its respondents under Title 13, United States Code, Section 9. These revisions are required by the passage and implementation of provisions of the Federal Cybersecurity Enhancement Act of 2015 (H.R. 2029, Division N, Title II, Subtitle B, Sec. 223), which permit and require the Secretary of Homeland Security to provide Federal civilian agencies' information technology systems with cybersecurity protection for their Internet traffic. More details on this announcement are presented in the SUPPLEMENTARY INFORMATION section below.

**DATES:** To ensure consideration, written comments must be submitted on or before (INSERT

DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER).

**ADDRESSES:** Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at [jjessup@doc.gov](mailto:jjessup@doc.gov)).

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information should be directed to Robin J. Bachman, Policy Coordination Office, Census Bureau, HQ-8H028, Washington, DC 20233; 301-763-6440 (or via email at [pcp.policy.office@census.gov](mailto:pcp.policy.office@census.gov)). Due to delays in the receipt of regular mail related to security screening, respondents are encouraged to use electronic communications.

## **SUPPLEMENTARY INFORMATION**

### **I. Abstract**

Federal statistics provide key information that the Nation uses to measure its performance and make informed choices about budgets, employment, health, investments, taxes, and a host of other significant topics. The overwhelming majority of Federal surveys are conducted on a voluntary basis. Respondents, ranging from businesses to households to institutions, may choose whether or not to provide the requested information. Many of the most valuable Federal statistics come from surveys that ask for highly sensitive information such as proprietary business data from

companies or particularly personal information or practices from individuals. Strong and trusted confidentiality and exclusively statistical use pledges under Title 13, U.S.C. and similar statistical confidentiality pledges are effective and necessary in honoring the trust that businesses, individuals, and institutions, by their responses, place in statistical agencies.

Under the authority of Title 13, U.S.C. and similar statistical confidentiality protection statutes, many Federal statistical agencies make statutory pledges that the information respondents provide will be seen only by statistical agency personnel or their sworn agents, and will be used only for statistical purposes. Title 13, U.S.C. and similar statutes protect the confidentiality of information that agencies collect solely for statistical purposes and under a pledge of confidentiality. These acts protect such statistical information from administrative, law enforcement, taxation, regulatory, or any other non-statistical use and immunize the information submitted to statistical agencies from legal process. Moreover, many of these statutes carry criminal penalties of a Class E felony (fines up to \$250,000, or up to five years in prison, or both) for conviction of a knowing and willful unauthorized disclosure of covered information.

As part of the Consolidated Appropriations Act for Fiscal Year 2016 signed on December 17, 2015, the Congress included the Federal Cybersecurity Enhancement Act of 2015 (H.R. 2029, Division N, Title II, Subtitle B, Sec. 223). This Act, among other provisions, permits and requires the Secretary of Homeland Security to provide Federal civilian agencies' information technology systems with cybersecurity protection for their Internet traffic. The technology

currently used to provide this protection against cyber malware is known as Einstein 3A; it electronically searches Internet traffic in and out of Federal civilian agencies in real time for malware signatures.

When such a signature is found, Department of Homeland Security (DHS) personnel shunt the Internet packets that contain the malware signature aside for further inspection. Since it is possible that such packets entering or leaving a statistical agency's information technology system may contain a small portion of confidential statistical data, statistical agencies can no longer promise their respondents that their responses will be seen only by statistical agency personnel or their sworn agents. However, they can promise, in accordance with provisions of the Federal Cybersecurity Enhancement Act of 2015, that such monitoring can be used only to protect information and information systems from cybersecurity risks, thereby, in effect, providing stronger protection to the integrity of the respondents' submissions.

Consequently, with the passage of the Federal Cybersecurity Enhancement Act of 2015, the Federal statistical community has an opportunity to welcome the further protection of its confidential data offered by DHS' Einstein 3A cybersecurity protection program. The DHS cybersecurity program's objective is to protect Federal civilian information systems from malicious malware attacks. The Federal statistical system's objective is to ensure that the DHS Secretary performs those essential duties in a manner that honors the Government's statutory promises to the public to protect their confidential data. Given that the Department of Homeland

Security is not a Federal statistical agency, both DHS and the Federal statistical system have been successfully engaged in finding a way to balance both objectives and achieve these mutually reinforcing objectives.

Accordingly, DHS and Federal statistical agencies, in cooperation with their parent departments, have developed a Memorandum of Agreement for the installation of Einstein 3A cybersecurity protection technology to monitor their Internet traffic and have incorporated an associated Addendum on Highly Sensitive Agency Information that provides additional protection and enhanced security handling of confidential statistical data. However, many current Title 13, U.S.C. and similar statistical confidentiality pledges promise that respondents' data will be seen only by statistical agency personnel or their sworn agents. Since it is possible that DHS personnel could see some portion of those confidential data in the course of examining the suspicious Internet packets identified by Einstein 3A sensors, statistical agencies need to revise their confidentiality pledges to reflect this process change.

Therefore, the U.S. Census Bureau is providing this notice to alert the public to the confidentiality pledge revisions in an efficient and coordinated fashion and to request public comments on the revisions. The following section contains the revised confidentiality pledge and a listing of the U.S. Census Bureau's current PRA OMB numbers and information collection titles for the Information Collections whose confidentiality pledges will change to reflect the statutory implementation of DHS' Einstein 3A monitoring for cybersecurity protection purposes.

## **II. Method of Collection**

The following is the revised statistical confidentiality pledge for the Census Bureau's data collections:

*The U.S. Census Bureau is required by law to protect your information. The Census Bureau is not permitted to publicly release your responses in a way that could identify you. Per the Federal Cybersecurity Enhancement Act of 2015, your data are protected from cybersecurity risks through screening of the systems that transmit your data.*

The following listing includes Census Bureau information collections which are confidential under 13 U.S.C. Section 9, as well as information collections that the Census Bureau conducts on behalf of other agencies which are confidential under 13 U.S.C. Section 9 and for which the confidentiality pledge will also be revised.

<b>OMB Number</b>	<b>Title of Information Collection</b>
0607-0008	Manufacturers' Shipments, Inventories, and Orders Survey
0607-0013	Annual Retail Trade Report
0607-0049	Current Population Survey (CPS) Basic Demographics
0607-0104	Advance Monthly Retail Trade Survey (MARTS)
0607-0110	Survey of Housing Starts, Sales, and Completions
0607-0117	U.S. Census-Age Search
0607-0151	The Boundary and Annexation Survey (BAS) & Boundary Validation Program (BVP)
0607-0153	Construction Progress Reporting Surveys

0607-0175	Quarterly Survey of Plant Capacity Utilization
0607-0179	Housing Vacancy Survey (HVS)
0607-0189	Business and Professional Classification Report
0607-0190	Monthly Wholesale Trade Survey
0607-0195	Annual Wholesale Trade Survey (AWTS)
0607-0354	Annual Social and Economic Supplement to the Current Population Survey
0607-0368	Special Census Program
0607-0422	Service Annual Survey
0607-0432	Quarterly Financial Report (QFR)
0607-0444	2014 - 2016 Company Organization Survey
0607-0449	Annual Survey of Manufactures
0607-0464	October School Enrollment Supplement to the Current Population Survey
0607-0466	Current Population Survey, Voting and Registration Supplement
0607-0561	Manufacturers' Unfilled Orders Survey
0607-0610	Current Population Survey June Fertility Supplement
0607-0717	Monthly Retail Trade Survey
0607-0725	Generic Clearance for Questionnaire Pretesting Research
0607-0757	2017 New York City Housing and Vacancy Survey
0607-0782	Annual Capital Expenditures Survey
0607-0795	Generic Clearance for Geographic Partnership Programs
0607-0809	Generic Clearance for MAF and TIGER Update Activities
0607-0810	The American Community Survey
0607-0907	Quarterly Services Survey
0607-0909	Information and Communication Technology Survey
0607-0912	Business R&D and Innovation Survey
0607-0921	2017 Economic Census - Commodity Flow Survey (CFS) - Advance Questionnaire
0607-0932	2017 Economic Census -- Commodity Flow Survey
0607-0936	American Community Survey Methods Panel Tests
0607-0963	2015 Management and Organizational Practices Survey
0607-0969	Federal Statistical System Public Opinion Survey
0607-0971	Generic Clearance for 2020 Census Tests to Research the Use of Automation in Field Data Collection Activities
0607-0977	2014 Survey of Income and Program Participation (SIPP) Panel
0607-0978	Generic Clearance for Internet Nonprobability Panel Pretesting
0607-0983	Comparing Health Insurance Measurement Error (CHIME)
0607-0986	Annual Survey of Entrepreneurs
0607-0987	The School District Review Program (SDRP)
0607-0988	The Redistricting Data Program

0607-0989	2016 Census Test
0607-0990	National Survey of Children's Health
0607-0991	2017 Economic Census Industry Classification Report
0607-0992	Address Canvassing Testing
0607-XXXX	2017 Census Test - <i>currently submitted for clearance</i>
0607-0760	Economic Census Round 3 Focus Group Discussion - <i>currently submitted for clearance</i>
0607-XXXX	Collection of State Administrative Records Data - <i>currently submitted for clearance</i>
0607-XXXX	2020 Census Local Update of Census Addresses Operation (LUCA) - <i>currently submitted for clearance</i>
2528-0017	2015 American Housing Survey
1220-0175	American Time Use Survey (ATUS)
1220-0050	Consumer Expenditure Quarterly and Diary Surveys (CEQ/CED)
1220-0100	Current Population Survey (CPS) - Basic Labor Force
1121-0317	Identify Theft Supplement to the NCVS
1121-0111	National Crime Victimization Survey 2015-2018
3145-0141	National Survey of College Graduates (NSCG)
1018-0088	National Survey of Fishing, Hunting, and Wildlife-Associated Recreation
1121-0260	2015 Police Public Contact Supplement
1121-0184	2017 School Crime Supplement to the NCVS
1121-0302	Supplemental Victimization Survey
2528-0013	Survey of Market Absorption (SOMA)
2528-0276	Rental Housing Finance Survey (RHFS)
1905-0169	Manufacturing Energy Consumption Survey (MECSA)
2528-0029	Manufactured Housing Survey (MHS)
0935-0110	Medical Expenditure Panel Survey (MEPS)
1220-0187	ATUS-Eating and Health Supplement
0536-0043	Food Security Supplement to the Current Population Survey
1220-0153	Contingent Worker Supplement to the Current Population Survey - (Currently in Federal Register Notice Stage - has not been fully approved)
1220-0102	Veterans Supplement to the Current Population Survey
0970-0416	Child Support Supplement to the Current Population Survey
3064-0167	National Survey of Unbanked and Underbanked Households
1220-0102	Volunteers Supplement
1220-0104	Displaced Workers Supplement
3135-0136	Survey of Public Participation in the Arts
0660-0221	Computer and Internet Use



### **III. Data**

*OMB Control Number:* 0607-0993

*Form Number(s):* none

*Affected Public:* All survey respondents to Census Bureau data collections

*Legal Authority:* 44 U.S.C. 3506 (e) and 13 U.S.C. Section 9

### **IV. Request for Comments**

Comments are invited on the necessity and efficacy of the Census Bureau's revised confidentiality pledge above. Comments submitted in response to this notice will become a matter of public record.

**Sheleen Dumas,**

PRA Departmental Lead, Office of the Chief Information Officer.

**BILLING CODE: 3510-07-P.**

[FR Doc. 2016-30959 Filed: 12/22/2016 8:45 am; Publication Date: 12/23/2016]